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**VIA ELECTRONIC MAIL**

David F. Butler, Esquire  
Public Service Commission of South Carolina  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210

**RE: Response to ORS's May 31, 2018 Letter Concerning the Procedural  
Schedule for Docket Nos. 2017-207-E, 2017-305-E, and 2017-370-E**

Dear Mr. Butler:

On May 24, 2018, the Public Service Commission of South Carolina ("Commission") issued its proposed schedule for pre-filed testimony ("Proposed Pre-Filing Schedule") in the following three consolidated dockets:

- Docket No. 2017-207-E ("Docket 207") – Friends of the Earth and Sierra Club v. SCE&G
- Docket No. 2017-305-E ("Docket 305") – ORS Request for Rate Relief from SCE&G's Rates Pursuant to S.C. Code Ann. § 58-27-920
- Docket No. 2017-370-E (the "Merger Approval Proceedings") – Joint Application and Petition of SCE&G and Dominion Energy for Review and Approval of a Proposed Business Combination Between SCANA Corporation and Dominion Energy, Inc. ("Dominion Energy")

That schedule set forth the following deadlines and sought responses from the parties by May 31:

Testimony Deadlines	2017-370- E	2017-207- E	2017-305- E
<b>Petitioners – Direct Testimony</b>	07/10/18	07/10/18	07/12/18
<b>Respondents – Direct Testimony</b>	08/17/18	08/17/18	08/21/18
<b>Petitioners – Rebuttal Testimony</b>	09/18/18	09/19/18	09/21/18
<b>Respondents – Sur-Rebuttal Testimony</b>	09/25/18	09/26/18	09/28/18

(Continued ...)

SCE&G and Dominion Energy (collectively, the “Joint Applicants”) responded on May 31, 2018, stating that they “support the logic and timing of the proposed pre-filing schedule,” but noting that they were not “waiving any present or future legal rights.” That same day, the South Carolina Office of Regulatory Staff (“ORS”) objected to the Proposed Pre-Filing Schedule. ORS’s proposed alternative schedule, though purporting to establish fairness and efficiency, abandons both in favor of an unnecessarily jumbled adjudicative process that plainly violates the constitutions of both the United States and the State of South Carolina.

ORS’s alternative schedule does not require the petitioners in Docket 207 and Docket 305 to pre-file any direct testimony constituting a case in chief but allows them simply to respond to the testimony filed by Joint Applicants. This proposal is unfair because SCE&G would be required to defend itself against the claims brought in the Docket 207 and the Docket 305 **before the petitioners in those dockets present their evidence**. There can be no clearer due process violation than forcing SCE&G to mount its defense before the cases against it are presented.

The deadlines contained in ORS’s proposal are equally unfair. They require the Joint Applicants to submit their direct testimony in all three dockets on July 3, 2018, and give all of the other parties an additional **78 days** to respond. (See ORS Ltr. at 2.) The Joint Applicants would then only be allowed **28 days** to respond both to the cases in chief against SCE&G in Docket 207 and 305 and to the claims and defenses raised by opposing parties in the Merger Application. This is obviously unfair.

The basis for ORS’s proposed alternative schedule is its claim that the Proposed Pre-Filing Schedule “do[es] not permit adequate time for full disclosure of necessary discovery and for presentation of the evidence and issues by ORS.” (ORS Ltr. at 1.) This is a remarkable position for ORS to take considering that the statute pursuant to which they initiated Docket 305 required ORS to conduct a preliminary investigation justifying the relief requested **before** it petitioned the Commission pursuant to § 58-27-920. Thus, ORS’s contention that it needs additional time to conduct discovery on the issues raised in the Docket 305 constitutes a tacit admission that ORS did not perform the preliminary investigation required by § 58-27-920. As such, SCE&G hereby renews its motion to dismiss ORS’s petition in the Docket 305. In any event, ORS’s failure to comply with their statutory directive to conduct an investigation before bringing a rate relief case does not justify extending the timeline for the parties to pre-file testimony in the consolidated dockets.

(Continued . . .)

In addition, ORS has already had over eight months to conduct discovery on these issues but still represents that it lack information necessary to make its case. This is in spite of the fact that ORS has had dedicated staff and an outside expert monitoring the NND Project for nine years, during that period ORS has reviewed internal project reports and other construction documents as they were produced, and ORS has audited the costs associated with the project continuously since 2008. Furthermore, SCE&G has been fully responsive to ORS's discovery requests in this proceeding as required by generally accepted discovery rules and has answered hundreds of discovery requests and provided tens of thousands of pages of documents to ORS. ORS's claim to have not had an opportunity to discover the facts needed to mount its case is entirely without merit.

The Friends of the Earth and Sierra Club proceeding has been pending for over 11 months.

**If at this late date, the ORS and Sierra Club and Friends of the Earth cannot put on a case in chief, they should be invited to dismiss the claims that they obviously have brought without the facts required to support them.**

**For these reasons, the Hearing Officer should reject ORS's request for an unconstitutional schedule for pre-filing testimony in the consolidated dockets and proceed with entering the Proposed Pre-Filing Schedule he provided.**

Very truly yours,



K. Chad Burgess

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